

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition for
Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)
**(FCC Triennial Review
Nine-Month Phase)**

**ADMINISTRATIVE LAW JUDGE'S RULING
AMENDING THE DEFINITION OF "PARTIES"
AS USED IN THE ADOPTED PROTECTIVE ORDER**

This ruling is issued to formally amend the Protective Order adopted October 16, 2003, in this proceeding to affirm that the term "party" as defined therein expressly includes all "respondents" that provide data for use in this proceeding. On October 22, 2003, Commissioner Kennedy transmitted by letter to telecommunications carriers throughout California a directive to submit pertinent data necessary in conducting the trigger analysis for this proceeding. As stated in Commissioner Kennedy's letter, carriers receiving the letter soliciting trigger-related data shall be made "respondents" to the proceeding. My ruling dated October 31, 2003, formally designated such carriers as respondents to this proceeding. Respondents are thus legally responsible for complying with Commissioner Kennedy's information request.

The letter from Commissioner Kennedy informed respondents that any party to the proceeding that seeks access to confidential information that was

provided by a respondent must sign the Protective Order and submit to its terms before being allowed access. Moreover, the ALJ ruling issued on October 16, 2003, stated that the adopted Protective Order governs “the treatment and protection of confidential information produced for use in this proceeding.” Thus, in adopting the Protective Order, the intent was that it encompass *all* confidential information produced for use in this proceeding, including that produced by respondents pursuant to Commissioner Kennedy’s October 22, 2003 letter.

Throughout the body of the Protective Order, however, the term “party” is used to refer to an entity with rights and obligations with the respect to the provisions set forth therein. The term “party” is defined on Page 1 of the Protective Order to mean “any party to this Proceeding, including any parent, subsidiary, affiliate or agent.”¹ Because the stated definition does not expressly identify “respondents” to Commissioner Kennedy’s October 22, 2003 letter, as being included within the term “party” as used in the Protective Order, however, we hereby amend the official definition to make that comprehensive identification explicit.

Out of an abundance of caution, this ruling shall clarify and affirm that the Protective Order applies not just to data produced or received by formal “parties of record” (i.e., appearances on the service list), but also “respondents” that may not be formal parties to the proceeding. To further clarify and affirm that the confidentiality requirements in the Protective Order apply equally to

¹ By ALJ ruling dated October 31, 2003, the definition of the term “party” as used in the Protective Order was clarified to add language excluding Commission staff, including the Office of Ratepayer Advocates.

respondents and to parties of record, the “Definitions” portion of the Protective Order is thus amended to incorporate the following additional language to the sentence defining the term “party.” Amended language is identified as underlined text, as follows: “The term party as used in the Protective Order means any formal party of record in this Proceeding, other than ORA including any parent, subsidiary, affiliate or agent, as well as any respondent that may not be a formal party, but that provides information for use in this proceeding including those respondents referenced in the ALJ ruling dated October 31, 2003.”²

IT IS RULED that:

1. The Protective Order adopted by ruling dated October 16, 2003, is hereby amended to further clarify and affirm that the confidentiality requirements in the Protective Order applies equally to respondents and to parties of record.

² The additional clarifying language excluding ORA and other Commission staff from the Protective Order definition of “party” as adopted in the October 31, 2003 ruling remains in effect.

2. The definition of “party” as set forth on Page 1 of the Protective Order is hereby amended as follows (with the amended language identified as underlined text): “The term party as used in the Protective Order means any formal party of record in this Proceeding, other than ORA, including any parent, subsidiary, affiliate or agent, as well as any respondent that may not be a formal party, but that provides information to the Commission for use in this proceeding including those respondents referenced in the ALJ ruling dated October 31, 2003.”

Dated November 13, 2003, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Amending the Definition of "Parties" as Used in the Adopted Protective Order on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated November 13, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.